

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

|                                   |   |                       |
|-----------------------------------|---|-----------------------|
| Jeremy Hewitt,                    | ) |                       |
|                                   | ) | C/A No. 0:10-1594-MBS |
| Petitioner,                       | ) |                       |
|                                   | ) |                       |
| vs.                               | ) |                       |
|                                   | ) | <b>ORDER</b>          |
| Warden of Turbeville Correctional | ) |                       |
| Institution,                      | ) |                       |
|                                   | ) |                       |
| Respondent.                       | ) |                       |
| _____                             | ) |                       |

Petitioner Jeremy Hewitt is an inmate in custody of the South Carolina Department of Corrections (SCDC). On June 22, 2010, Petitioner, proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On December 21, 2010, Respondent filed a motion for summary judgment. On December 22, 2010, in accordance with Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), Petitioner was advised of the summary judgment procedures and the possible consequences of failing to respond adequately. Petitioner filed no response to the motion for summary judgment. On February 1, 2011, the Magistrate Judge issued an order directing Petitioner to file a response to Respondents' motion within fourteen days. Petitioner was advised that his failure to respond would subject his case to dismissal with prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b). Petitioner filed no response. Accordingly, the Magistrate Judge issued a Report and Recommendation on February 23, 2011 in which she recommended that the within complaint be dismissed for failure to prosecute. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed *with prejudice* pursuant to Rule 41(b) for failure to prosecute.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour

United States District Judge

Columbia, South Carolina  
March 22, 2011

**NOTICE OF RIGHT TO APPEAL**

**Petitioner is hereby notified of the right to appeal this order  
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**